



**LEGISLATIVE COUNCIL
OFFICIAL REPORT**

**RECORTYS OIKOIL
Y CHOONCEIL SLATTYSSAGH**

P R O C E E D I N G S

D A A L T Y N

(HANSARD)

Douglas, Tuesday, 23rd November 2004

Present:

The President of Tynwald (The Hon. N Q Cringle)

The Lord Bishop of Sodor and Man (The Rt. Rev. Graeme Knowles), The Attorney General (Mr W J H Corlett QC),
Mrs P M Crowe, Mr D F K Delaney, Mr D J Gelling CBE,
Mr J R Kniveton, Mr E G Lowey, Mr L I Singer and Mr G H Waft,
with Mrs M Cullen, Clerk of the Council.

Business transacted

	<i>Page</i>
Leave of absence granted.....	31
Procedural	31
1. Questions for Oral Answer commenced	
4. New prison – Reasons for delay and resulting costs.....	31
Orders of the Day commenced	
2. Housing (Multi-Occupation) Bill – For Third Reading – Motion withdrawn	33
3. Veterinary Surgeons Bill – Second Reading approved.....	33
Veterinary Surgeons Bill – Consideration of clauses commenced.....	34
Procedural	34
1. Questions for Oral Answer concluded	
1. Chief Secretary and Chief Executives – Scrutiny of annual performance reports and interview procedure	34
2. Chief Executives’ meetings – Frequency and circulation of minutes	37
3. ‘Excluded pupils’ in Junior/Senior schools	38
Orders of the Day concluded	
Veterinary Surgeons Bill – Consideration of clauses concluded.....	39
Veterinary Surgeons Bill – Procedural re Third Reading	44
4. Leave to introduce – A Bill to amend the Licensing Acts 1966 to 2001 – Motion withdrawn.....	44

The Council sat in private at 11.55 a.m.

Legislative Council

The Council met at 10.30 a.m.

[MR PRESIDENT *in the Chair*]

PRAYERS

The Lord Bishop

LEAVE OF ABSENCE GRANTED

The President: Hon. Members, we have apologies for absence this morning from Mrs Christian, who is indisposed, and Mr Kniveton will be leaving to attend a funeral later this morning, Hon Members.

Procedural

The President: Dealing with the Order Paper, the first Items on the Order Paper are Questions for Oral Answer. Now, Hon. Members, there has been an element of difficulty, as I understand it, in the Chief Minister finding a Member of Council, particularly in relation to Questions 1 and 2, who is prepared to answer these Questions. So, in that particular instance, I have requested that the Chief Minister attend upon Council this morning, which he will do later, depending on how they are moving in another place.

So, I propose, Hon. Members, at this stage, to leave the Questions over until such time as the Chief Minister is available.

Questions for Oral Answer commenced

A MEMBER OF GOVERNMENT

New prison

Reasons for delay and resulting costs

1.4. The Hon Member (Mr Lowey) to ask a Member of the Government:

- (a) *When will the new prison project be presented to Tynwald for approval;*
- (b) *what are the reasons for the delay of the project; and*
- (c) *what are the estimated monthly additional costs as a result of the delay?*

The President: Question number 4, as I understand it, could be answered and, if that is alright, Hon. Members, I have an indication that Question 4 could be answered.

In that case, Hon. Members, I am prepared to take Question 4. Mr Lowey.

Mr Lowey: Thank you, Mr President. I beg leave to ask the Question standing in my name.

The President: I understand that the Answer is, then, in the hands of the Hon. Member, Mrs Crowe.

A Member of the Government (Mrs Crowe): Yes, Mr President, as you know I am a Member of the Department of Home Affairs and, in fact, the Department had expected to take a motion to the November 2004 sitting of Tynwald for approval, or otherwise, to the funding requirement for the construction of the new prison at Jurby. It is now hoped, all being well, it will be possible for the Department to make its submission to the January 2005 Tynwald.

Mr President, the delay in submitting the motion to the November Tynwald relates to the Department receiving a request from the main contractor for an extension to the timeframe for the compilation of their financial submission. Following on from this submission, the Department's design team will require time to scrutinise and access the figures, prior to any decision being taken by the Department to the progression of this matter.

It was always recognised, Mr President, that this was a very ambitious programme, with very demanding timescales. The Department was disappointed that it had not made the November Tynwald. However, staff of the Department and its design team have always been committed and focused on delivering a scheme which offers best value for money to the public of the Isle of Man, and this continues.

Above and beyond this, there have also been delays to the project outwith the control of the Department, specifically relating to the planning process.

Mr President, at this stage, it is not envisaged that there will be any cost increases resulting from the delay in not submitting a motion to the November Tynwald, and aiming for the January sitting, and the Department is currently in discussions with the design team over any possible cost increases, should the project be delayed beyond January 2005.

As and when the Department is in possession of this information, it will be happy to share it with the Hon. Members of Council.

The President: Hon. Member, Mr Lowey.

Mr Lowey: Thank you, Mr President.

Using the words of the Member of the Department, this has always been an ambitious scheme. Would she not agree it was urgent prior to the last general election, three years ago? Why on earth is the contractor, at this last stage, after all this length of time, asking for their contract prices to be reviewed? And that would hardly be a review downwards – it would be a review upwards.

And could I ask the pertinent question: if the Department knew it was not going to be delivered to the November Tynwald, why did the Department not make a statement to that effect before Tynwald – November Tynwald? Is it not a strange coincidence that they released a statement to the press in the middle of last week, when this Question was down on the Order Paper?

The President: Mrs Crowe.

Mrs Crowe: Thank you, Mr President.

I would agree with my hon. colleague in Council: it is unsatisfactory. The Department is concerned. The Department fully recognises the urgency of the provision of a new prison and, I think, the matters relating to the statement are outwith my responsibilities, and are entirely with the Minister and, perhaps, that may have been more appropriate.

But I do know that we were waiting until almost the last moment to receive the figures, to enable the motion to be put on the November sitting.

The President: Hon. Member, Mr Gelling.

Mr Gelling: Yes, I think what caught my ear, Mr President, was the ‘no extra cost’: I can accept ‘no extra cost’, because it is not moved in November, and it has gone to January, but we know that there has been a tremendous extra cost from – as the Hon. Member said – when it was originally proposed.

But I come down on the line of the extra cost in revenue implications. Has this prison satisfied the Department that it will be able to be controlled by the same number of people, if anything less? If I can just say why I ask, Mr President, it is that I can well remember when the new wing was built at the old prison, it was then used as something to say, ‘Well, the warder cannot see the doors of the prison cells, so we have got to have an extra dozen’ – and I just wonder whether we have learned from that mistake, and that, in fact, some of the contractors’ problems are that they have found that they have not got eye vision of all the different cells.

Mr Delaney: Design.

The President: Mrs Crowe.

Mrs Crowe: It is my understanding that the design of the prison was built specifically in a hub-and-wheel shape to enable, perhaps, fewer prison officers than the original requirement suggested, although I think the extra requirement, from the time of conception of the prison, was something like 64 extra staff.

There have been appointed extra staff, at the present time, to the prison, and the number of officers required, I am told, to open the prison at Jurby will be another 35.

The President: Hon. Member, Mr Singer.

Mr Singer: Thank you, Mr President.

My question is in relation more to item (a): about the prison project. When it is presented to Tynwald, will we actually be given the details of the prison – what is going in the prison? The Member might well be aware of my questions previously about what is going to be provided in the prison.

Are we going to get a luxury prison where, we hear, with football pitches, when we have complaints from the general public that they have not got enough football pitches? Are they going to get Sky Sports, and all these things – facilities – that other people have not got? Are they going to have full gym facilities and a big sports hall, when other members of the public do not have these sort of things? Are we going to get these – what I would call – luxury facilities – or are they proposed?

And the other question I have is: in selling the prison to Jurby, one of the selling points to the people was that they

would have access to that sports hall. I understand now that that has been withdrawn. Could the Hon. Member tell me if that, in fact, has been withdrawn, and the people from Jurby will no longer be able to use that sports hall; and, if so, why?

The President: Hon. Member, Mrs Crowe.

Mrs Crowe: I am sorry that I cannot answer that question. I would be most disappointed, as a Member of the Department, if, in fact, it was not the case, because I do believe that the provision for community facilities in that area could very well be accommodated on some joint-sharing scheme.

As I say, I do not have that information at the present time, but I will make sure that information is circulated.

And in regard to the provision of what is going, actually, in the prison, I think there is a blueprint for the prison at the present time – for the new prison – and, maybe, it would be appropriate for that model, and the blueprint to be displayed in the Members’ area – somewhere in Tynwald – so that we can, in fact, all view it at our leisure and look at the facilities that are going to be offered. Certainly, there will be football pitches and areas for leisure.

The President: Hon. Member, Mr Waft.

Mr Waft: Thank you, Mr President.

A couple of things: the Home Affairs Minister, some time ago, mentioned that he was going to conduct a penal audit. Has that been undertaken, or is it intended to be undertaken prior to the building of the prison? Has there been any further progress with regard to the tagging situation?

The President: Hon. Member, Mrs Crowe.

Mrs Crowe: Once again, I do not have that information in my supplementary information and do not wish to give you the incorrect information. I am sure that can be circulated, as well, with the information required by Mr Singer.

I know that tagging has been mentioned many times in the Department and I am just not actually sure at what stage we are at, at the present time.

The President: Mr Singer.

Mr Singer: If I may, briefly, Mr President.

I just come back to my question: it would be very nice if the blueprint, as you call it, could be displayed for Members, but will it be open to discussion in the Tynwald debate on the prison project?

The President: Mrs Crowe.

Mrs Crowe: Mr President, I do believe that this discussion has already taken place. I mean, the design of the prison – fine – but the prison has been designed and, of course, these particular areas, if there are to be community usage of certain areas, that has to be built into the design.

So, the design has been of long standing and I feel certain that the Department would not wish to alter any designs by way of showing the Members of Tynwald all the plans for the prison.

The President: Mr Lowey.

Mr Lowey: Just for clarification, to assist, maybe, the Member – is it not a fact that the Department will be coming for a scheme – a financial resolution – for a bill for whatever it is the builders have submitted and have been approved by the Department and Treasury and the Council of Ministers?

And that will be the thing – it will be a *fait accompli*. So, the time for discussion will have gone – long since gone.

The President: Mrs Crowe.

Mrs Crowe: Yes, I think I would totally agree with the Hon. Member of Council.

Orders of the Day commenced

Housing (Multi-Occupation) Bill For Third Reading Motion withdrawn

2. Mrs Crowe to move:

That the Housing (Multi-Occupation) Bill be read the third time.

The President: Hon. Members, having dealt with Question 4, as I said, we will await the arrival of the Chief Minister to deal with the remaining Questions, so we move on to Item 2 on the Order Paper, which is the Housing (Multi-Occupation) Bill. It is for Third Reading. Mrs Crowe.

Mrs Crowe: Mr President, I think I have suggested that I request, from you, that we could delay the Third Reading for a week, until such time as we have had an opportunity to ask some questions of the officers that are wishing to progress this Bill. I think there are a number of issues that were raised in Council, and I think it would be helpful for Members of Council, with your permission, to be able to ask questions of the Department.

The President: Hon. Members, there will be, if practical, at the end of this sitting, a briefing by the Department.

Veterinary Surgeons Bill Second Reading approved

3. Mr Waft to move:

That the Veterinary Surgeons Bill be read a second time.

The President: So, we will turn then, Hon. Members, to the Veterinary Surgeons Bill for Second Reading, in the hands of the Hon. Member of Council, Mr Waft.

Mr Waft: Thank you, Mr President.

If I could, first of all, clarify, for the Member who asked the questions previously – unfortunately, she is not with us today – but for the rest of the Members.

With regard to the question on the Supplementary Register, the question was: were those on the Supplementary Register defined as vet practitioners or is that an old definition of qualified vets, which is now removed from the legislation?

The answer to that one is that those on the Supplementary Register were called veterinary practitioners, as distinct from veterinary surgeons, in common parlance. ‘Veterinary practitioner’ is a term used, interchangeably, with ‘veterinary surgeon’. However, in the 1949 Act, the distinction is important because it means that veterinary practitioners are not qualified.

The Bill’s consequential amendments to other enactments include the removal of the reference to veterinary practitioners, as used in the specialised sense of the 1949 Act. With the removal of the Supplementary Register, that distinction will no longer be an issue.

The other question, Mr President, was with regard to the mouth being a body cavity. The mouth is a body cavity: therefore, no medical treatment or minor surgery can be given by unqualified persons. Such activities as cleaning, descaling, and rasping of the non-sensitive parts of the teeth would not be considered a medical or surgical treatment.

However, an extraction or interference with any of the sensitive tissues of the mouth most certainly would be and would, therefore, be prohibited by schedule 1, part I, paragraph 2(1). Those are the answers to the two questions I have been asked in the between time, Mr President.

Going on with the Second Reading, in many respects, the Bill remakes the provisions of the existing Act, the Veterinary Surgeons Act 1949. The main differences lie in the removal of reference to the long out-of-date Supplementary Register, amending the list of minor treatments that may be carried out by unqualified persons to reflect current usage as laid down by the Royal College of Veterinary Surgeons, and providing powers to make appropriate amendments to the Act by order, subject to the approval of Tynwald.

There are, therefore, three substantive issues dealt with in the Veterinary Surgeons Bill: (1) the practitioners to be Members of the Royal College of Veterinary Surgeons. The first is that, in order to practise veterinary medicine in the Island, a person must be a Member of the Royal College of Veterinary Surgeons, or hold a qualification which is recognised by the College.

The current Act, dating from 1949, came at a time when there was still a possibility that experienced, but unqualified persons, were practising animal treatment in the Island. They were given the opportunity to go on what was called the Supplementary Register, provided they were, at least, 28 years of age at the time.

However, 55 years later, there is no-one in that category now. The Bill, therefore, removes reference to the Supplementary Register. The Supplementary Register was intended as a practical alternative for those with grandfather rights, arising from appropriate experience, even though they did not have a qualification.

The current Act enables the list of minor treatments by unqualified persons to be extended by order. However, there is no provision for amending the procedures already listed or for removing them from the list. The current list does not

now reflect the standards and informed opinion of the Royal College of Veterinary Surgeons.

In order for the Island's veterinary legislation to reflect current usage, the Act is to be replaced, incorporating the up-to-date list. However, the reason that the current list is out of date is that opinion and standards change from time to time. The deficiency of the 1949 Act is that it does not allow for that process. The Bill, on the other hand, provides powers to amend the list of procedures as and when necessary in the future, subject to Tynwald approval.

Mr President, I beg to move the Second Reading of the Bill.

The President: Mr Lowey.

Mr Lowey: I beg to second and reserve my remarks.

The President: Hon. Members, the motion that I put to Council is that the Veterinary Surgeons Bill be read for a second time. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Veterinary Surgeons Bill

Consideration of clauses commenced

The President: We turn then to the clause section of the Bill and, Mr Waft, clause 1 and schedule 1, sir.

Mr Waft: Thank you, Mr President.

Clause 1 means that no-one is allowed to be a veterinary surgeon in the Isle of Man, unless they are entered in the Register of Veterinary Surgeons, maintained by the Royal College of Veterinary Surgeons in London.

The Register contains those with equivalent qualifications from other countries throughout the world, so it is not restricted only to people who have been trained in the British Isles, under the auspices of the Royal College.

The clause also means that no-one can purport to be a veterinary surgeon or tout for business, unless they have an appropriate qualification. The clause makes it an offence punishable by a fine of up to £5,000 to a custodial sentence of up to three months, or both.

Veterinary surgeons deal with a whole range of animals, so this Bill protects people's pets, as well as farm animals, by ensuring they are treated only by appropriately qualified people.

In the 1949 Act, in addition to the veterinary surgeons, there were grandfather rights for people who had been involved with treating animals for a number of years, but with no qualifications. These were defined as veterinary practitioners who were recorded on a Supplementary Register.

To enter this category, people had to have a 10-year track record of treating animals and be at least 28 years of age in 1949. This would make the veterinary practitioner at least 85 years old by now. The Department is not aware of anyone in this category still practising, so the Bill does not make any provision for them, unlike the 1949 Act which is being repealed.

Having said that, I am sure somebody will turn up!

Clause 1 is subject to clause 2 and schedule 1 of the

Bill. This deals with certain things that are a form of minor veterinary practice but which can be carried out by other people.

Clause 2 and schedule 1 deal with the circumstances when and in which the minor procedures can be carried out.

I beg to move clause 1 stand as part of the Bill, Mr President.

Mr Lowey: I beg to second, sir, and reserve my remarks.

The President: Does any Hon. Member wish to speak to either the schedule or the clause 1?

Well, in that case, Hon. Members, the motion which I will put to the Court is that clause 1 and schedule 1 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it, the ayes have it.

Procedural

The Chief Minister (Mr Corkill) entered the Chamber at 11.00 a.m.

The President: Now, Mr Waft, I appreciate that we have commenced the clause stage of your Bill but, perhaps, at this stage, noting that the Chief Minister has left another place, perhaps we could revert to our Order Paper, and Question Time.

Questions for Oral Answer concluded

A MEMBER OF THE GOVERNMENT

Chief Secretary and Chief Executives Scrutiny of annual performance reports and interview procedure

1.1. The Hon Member (Mr Lowey) to ask a Member of the Government:

- (a) *Who reviews the annual performance of the Chief Secretary;*
- (b) *is this annual report and those of the Chief Executives of Departments available for scrutiny, and if not, why not; and*
- (c) *is it appropriate for the Chief Secretary to sit on all interview panels for Chief Executives?*

The President: Chief Minister, could I invite you to come forward, sir. On this occasion, it may very well be more convenient – we have a vacant seat – if you were to come forward this morning, which will allow you to speak closer to the microphone, sir, so that we will get the *Hansard*.

The Chief Minister (Mr Corkill): Thank you, Mr President.

The President: Hon. Members, it will permit the easier provision of our Official Record.

Can I say, Chief Minister, thank you for coming in this morning, to answer these particular Questions. On our Order Paper, we have the Question, and I call on the Hon. Member, Mr Lowey.

Mr Lowey: Thank you, Mr President.

I thank the Chief Minister for coming to answer them, like you, too, sir. I beg leave to ask the Question standing in my name.

The President: Chief Minister, with grateful thanks.

The Chief Minister: Well, thank you, Mr President, for the invitation to allow me the ability to answer the Question put.

Mr President, the annual review of all Chief Executives is done on the basis of a 360 degree assessment, that is to say, that senior managers who work within the Department, colleagues on the Chief Officer Group, and the Minister concerned, are all asked to submit their views, along with customers' views, where appropriate.

The feedback on these views is then given to each Chief Executive by the Chief Secretary, who then agrees with the Chief Executive what the key objectives are for the next year under review.

When this system of review was formulated, the Chief Secretary was insistent that she be treated no differently from any other chief officer; but this did pose a problem as to who was to receive the comments and give the relevant feedback.

Although a solution was found, and the comments on the Chief Secretary are to be fed to and collated by the Head of the Northern Ireland Civil Service, the Chief Secretary's key objectives could not be agreed for the last reporting year, but have now been put in place for the current reporting year.

Those who will be asked for comment are: the Chief Minister, three senior managers within the Chief Secretary's Office, and two chief officers.

In relation to part (b) of the Question, Mr President, no annual appraisals are available for scrutiny and, in this respect, the Chief Executives are no different from any other employee of Government. Annual appraisals are a management tool for the internal use of the employer and used as a means of improving and managing performance.

The Civil Service Commission charges the Personnel Office with carrying out appropriate monitoring of the fairness and accountability of the scheme.

And to part (c) of the Question, Mr President, as the Head of the Civil Service, I believe it is entirely appropriate – in fact, essential – that the Chief Secretary sits on all interview panels for Chief Executives.

Mr Lowey: Supplementaries, Mr President.

Would the Chief Minister not agree that, really, what he has outlined this morning is nothing more than self-regulation? Can it be right that the Chief Secretary reviews the very people that she has appointed to the nine departmental Chiefs?

So, she reviews them. She is hardly going to review critically people that she has been directly responsible for appointing in the first place.

Has there ever been a critical report? If the Chief

Minister's Answer is to be understood literally, he does not know, because they are not made available to anybody; so how do the public have confidence that a proper critical assessment has been actually taken place?

The President: Just hold there, we cannot have too many supplementaries at the one time. Chief Minister.

The Chief Minister: Well, I believe, Mr President, that there have been critical reports in the past and those reports form the basis of key objectives for the forthcoming year.

It is a management issue of how the Chief Secretary manages Chief Executives to function efficiently in the public service, so that they do their job to the best of their ability. And so, the whole structure is designed to encourage better management.

The President: Mr Lowey.

Mr Lowey: Can I, then, come back to what he said at the start. He said 'all Chief Secretaries'. We only have one Chief Secretary, do we not? And if it is a Northern Ireland review, with three – if I heard him right? – three people of her own staff commenting on the Chief Secretary – hardly an objective view if they are working day in, day out, with the lady concerned – and I do not use the gender; the office of the lady concerned. How can that be objective?

The President: Chief Minister.

The Chief Minister: Well, I think the real objectivity, Mr President, comes in in relation to the fact that the Northern Ireland Civil Service has accepted, and – I am very pleased – functions in relation to that independence.

The hon. questioner said 'Chief Secretaries' in plural. I have been talking about the Chief Secretary and Chief Officers so, maybe, I said something incorrectly; but, yes, obviously, we only have one Chief Secretary, and the question relates to how the Chief Secretary relates to the Chief Officers that she has a responsibility to manage.

I believe that system is sound. Yes, there is a certain amount of self-regulation within it, as the hon. questioner puts it, but if, at the end of the day, what we are talking about is a situation of management within the Civil Service, and there are issues there as to how the Civil Service and the Civil Service Commission view the structures. There is an independence within the Commission, of course, as well.

The President: Hon. Member, Mrs Crowe.

Mrs Crowe: Thank you, Mr President.

To be helpful to the Chief Minister, having been part of this process, I wonder if he would confirm that, actually, the reporting done by the Minister on the Chief Executive and, indeed, the three members of staff –

The Chief Minister: Chief Secretary.

Mrs Crowe: – on Chief Secretaries or Chief Officers – is an anonymous process, so that one's name does not go on the report. The reports are all staged in the same way, but the members of staff make their report on the way they feel that they have been managed, or whatever.

So, it is an anonymous process and I think it is quite helpful.

The President: Chief Minister.

The Chief Minister: Well, I thank the hon. questioner for that issue about anonymity. Of course, in a small place like the Isle of Man, it always is a bit difficult to retain anonymity, but that is something that we try to design in, and that is fine.

I believe there is a healthy system of reporting, and this is not something that is an Isle of Man invention. It happens in other civil services. I have confidence, having met the Northern Ireland person responsible, that they will do an impartial and thorough job.

The President: Mr Singer.

Mr Singer: Can I ask the Chief Minister: obviously, the Chief Secretary knows that you are on this assessment panel, or whatever you want to call it, but who actually appoints these three managers? Who appoints these two Chief Officers?

I am bit bothered about this anonymity. I understand, in a bigger authority, there could be more anonymity. I am a bit concerned about this anonymity.

If you could tell me who appoints these people and, also, when Northern Ireland puts forward its report, if the report happens to be a poor report, what sort of action could be taken – I am not talking about this Chief Secretary; any Chief Secretary – who then takes any action to ensure that whatever is wrong is put right? Whose responsibility is it?

The President: Chief Minister.

The Chief Minister: Right, if I can just relate to the first part of the question: Chief Executives of Departments are appointed by a process of the Civil Service, the Chief Secretary, as a part of that, Ministers relevant to which Department we are talking about, and, sometimes, expert advice which is sought depending on the role that is being advertised and the requirements of the job.

So, there is always a decision to try and get as much expertise and breadth on the interview panel as is possible. So, I think it is wrong to assume that Chief Executives are appointed at the behest of the Chief Secretary. That is not the case.

Mr Singer: I think you have not got my point, Chief Minister.

The President: Mr Singer.

Mr Singer: I was actually saying who – I called it a panel who are assessing the Chief Secretary's performance – I am sorry if you misunderstood me. You are assessing it; we have got three managers – who appoints them? And we have got two Chief Officers: who decides who the Chief Officers should be?

And I say, if their report goes to Northern Ireland, and Northern Ireland comes back and says, 'There are problems', whose responsibility is it to take any action to right those problems?

I am sorry if you misunderstood me.

The President: Chief Minister.

The Chief Minister: Well, I believe and accept that the Northern Ireland Civil Service dictate where they get their reports from, as it were. And that is done on an anonymous basis. I can come back to Council Members and confirm that, but that is my belief.

We are in quite a... in terms of the way this system works – it is relatively new, the way it is at the moment. So, we are only going into the second year, and so I am not saying it is perfect yet. But I do believe that it is as independent and as useful a tool as it can be made, at the moment.

In terms of if it is a bad report, then, obviously, I would expect the Northern Ireland civil service person to report to me and tell me what the problems are.

But, equally, of course, it is important that the Civil Service Commission – probably, more important – are also alerted to the problems, so that that issue of Civil Service matters can be dealt with.

The President: I think a final supplementary, Mr Lowey.

Mr Lowey: The question has been asked, Chief Minister, for a simple reason, really: it is, if I can use a phrase I have got down here, 'politically incestuous'. Why is it vital that the Chief Secretary, as Head of the Civil Service, should sit in on the interviews of all the Chief Executives of the Department? Why?

The President: Chief Minister.

The Chief Minister: The Chief Secretary, of course, is part of the Civil Service Commission structure. Therefore, I would think it is quite appropriate that the Chief Secretary has input into someone that she will manage and have to work with. I think that is quite right.

But, of course, she is but one voice within a panel, and I have already described how that panel is structured, in relation to the appointment of Chief Officers within Departments.

So, I think, obviously, those decisions are made by the Chairman of the Civil Service Commission who sits as Chairman of the panel. Therefore, the Chief Secretary is but one vote, as it were, within that panel as all appointments are made. Sometimes, they are majority decisions and sometimes, they are unanimous.

Mr Lowey: Is it not a fact that there are usually three people who are on those panels – the Minister, and two members of the Civil Service Commission? So, the Chief Secretary and the Chairman of the Civil Service Commission can actually, if you like... the only power the Minister has is one of veto. The Minister cannot insist on having a particular individual.

The Chief Minister: You are right: at the end of the day, the Minister has to concur with the appointment, and if that appointment does not sit well with the Minister, for whatever reason, then the line can be drawn, and the job would have to be re-advertised.

The President: Okay, well, Hon. Members, I think we have given it a good airing.

**Chief Executives' meetings
Frequency and circulation of minutes**

2. The Hon Member (Mr Lowey) to ask a Member of the Government:

(a) *How many meetings have been held of the Chief Executives in the past 12 months;*

(b) *how many minutes of these meetings have been circulated to you or the Council of Ministers; and*

(c) *in view of the increasing political input of this grouping, do you not agree that you at least should be kept fully informed by their minutes being copied to you and the Council of Ministers?*

The President: We will go on to Question 2. I call again Mr Lowey.

Mr Lowey: Thank you, Mr President. I beg leave to ask the Question standing in my name.

The President: Chief Minister, I would be grateful again if you would answer, sir.

The Chief Minister (Mr Corkill): Thank you, Mr President.

The Chief Officer Group holds monthly meetings, usually on the second Tuesday of each month. In addition to the regular monthly meetings, the Group normally holds a short meeting each Thursday evening, to enable the Chief Secretary to verbally brief officers on any matters arising from the Council of Ministers' meeting held on the Thursday morning, or on that day, which require action by Chief Officers.

Such meetings would normally also be used to ensure that Tynwald and Keys and Legislative Council Questions have been actioned by Departments, and that they are being dealt with properly.

Chief Officers are not circulated with Council papers.

In the period from 1st October 2003, to 15th November 2004, the Group met 30 times.

In answer to part (b) of the Question, sir, it was agreed, in July this year, that the Council of Ministers would receive copies of the monthly meetings of the Group. The Group did not meet in August, and the minutes of the meetings of the Group held in September and October and earlier this month, 2004, have been circulated, for the benefit of the Council of Ministers – to the Council of Ministers.

Part (c) of the Question, Mr President, and I must emphasise this, the Group itself is not, in any way, a political group. It was formed to enable better communication between Departments on such matters as personnel, corporate initiatives and managerial functions. The Group has no statutory powers and other work done by the Group is normally done at the direct request of the Council of Ministers, wishing to use the Group as a tool for a purpose.

The President: Mr Lowey.

Mr Lowey: Would the Chief Minister not agree that, to be told that this Group meets 30 times a year – that is more than the Council of Ministers – shows that they are more active now than they have ever been?

Can he explain why his reluctance to accept that they have a growing political input has been highlighted recently – and I drew the Chief Minister's attention to this, sir, so I might as well make it public – regarding the advertisement for the Chief Executive of the new person to do the PR for the Isle of Man – for the corporacy bit of the Isle of Man? In the advertisement for that, this new appointment had to be accountable to the Council of Ministers – Chief Minister, Council of Ministers and the Chief Officer Group – so, therefore, there is again an extension – and putting it into statute almost – their political input. And would he not agree that this Group has more say in the policy-making formula of the Government of the Isle of Man than Members of Tynwald?

The President: Chief Minister.

The Chief Minister: I think the Hon. Member is incorrect when he says that the Chief Officer Group meets more often than the Council of Ministers because there are not many weeks that we do not have a Council of Ministers' meeting – maybe three or four, or maybe five in a year. So, I would suggest that we meet more often.

But that is not, really, relevant because the Chief Officer Group meets as a result of Council of Ministers' meetings, where they are expected to action policy initiatives and jobs of research that the Council of Ministers requests of them.

Perhaps the Hon. Member could just reiterate, in relation to the advertisement that he refers to, is the Hon. Member referring to the Project Manager's job of the branding initiative?

Mr Lowey: That is right.

The Chief Minister: Because, certainly, it gives me the opportunity to say that I am very pleased that Ian Gulland has taken up that post – someone from the Isle of Man who is returning to the Isle of Man – a young person with a lot of experience under his belt already, and I am very pleased with the way he has fitted into that role.

He has the responsibility, of course, in line management – because of where he is situated in the Civil Service – to the Chief Secretary, because that is the line management role. It is a contract post, as well, for the period of the branding project.

I have lost my thread now!

The President: Mr Lowey.

Mr Lowey: The point I am making. I quite understand him being –

The Chief Minister: You mentioned the word 'political', but I do not believe that they act politically in any way.

Mr Lowey: Well, let me again just highlight this. It was to the Chief Secretary, to the Chief Minister, the Council of Ministers and, for the first time in a public advertisement, the grouping that I referred to in this Question.

The Chief Minister: The Chief Officer Group, of course, has a job to co-ordinate different Departments together, and this is the issue of trying to get Government to work together (*Interjection by Mr Lowey*), without lines artificially drawn

between Departments that do not need to be there.

This particular project, where the Project Manager has been appointed, is very much cross-Departmental, bearing in mind there is Tourism, there is Treasury, there is the Department of Trade and Industry, there are cultural matters – it really is a very broad subject – the issue of branding – because it is one of those corporate matters.

Therefore, it is most important that communication lines are open to all those entities.

‘Excluded pupils’ in Junior/Senior schools

3. The Hon Member (Mr Lowey) to ask a Member of the Government:

How many children are ‘excluded’ from full-time education in Junior/Senior schools?

The President: Question 3. Mr Lowey.

Mr Lowey: Thank you, Mr President. I beg leave to ask the Question standing in my name.

The Chief Minister (Mr Corkill): Question 3.

The President: We have dealt with Question 4.

The Chief Minister: Yes, I was going to say, you have dealt with... Right, thank you, because I have not got a brief for Question 4, so that would have created a problem! *(Laughter)*

The President: Question 4 was provided by the Hon. Member, Mrs Crowe, who is a Member of the Department.

The Chief Minister: That was my understanding, so I am pleased, thank you.

Mr President. No children are excluded from the Island’s primary and secondary schools, when the term ‘excluded’ has the meaning, as it does in England and Wales, of being permanently removed from the school’s role.

However, legislation in the Isle of Man allows for a pupil to be suspended, which is a temporary measure for up to 10 days in any term, on the authority of the head teacher, or for longer periods, if the decision is approved by the school’s governing body.

In the last full school year, 2003-04, the records are as follows. In primary schools, 21 pupils – that is, 19 boys and two girls – out of a number of 6,744 were suspended. Four of these were suspended for more than 10 days.

In secondary schools, 301 pupils – that is 212 and 89 girls – out of a total of 5,572, were suspended; 25 of these were suspended for more than 10 days.

Mr President, there is no legally prescribed minimum for the amount of education which is made available to suspended pupils. Current Department policy requires – dictates – the equivalent of an hour per day’s education to be made available to a suspended pupil from day 11 onwards. This may be on or off site.

Guidance notes also stipulate that work experience alone for older pupils does not constitute the equivalent of an hour

per day’s education, but may be used to supplement it, if properly monitored by the school.

And, in relation to part (c) of the Question, appropriate... well, sorry – my answer is divided into (c) – sorry. In the third point, appropriate records are maintained by the Department, including the child’s name, the reason for the suspension and also the length of the suspension. Headteachers are legally required, under their schools’ articles of government, to notify the Department whenever they suspend any pupil.

Guidance notes advise schools that this should be accomplished by sending the Director a copy of the written notification of suspension letter to the parent.

The provision of continuing education to children who have been suspended for longer than 10 days is the responsibility of the school, and the cost of this is met from within the school budget, in the secondary phase, and from the Special Educational Needs Services, in the primary phase.

The President: Mr Lowey.

Mr Lowey: Can I thank the Hon. Chief Minister for his reply. Would he not agree that this is rather – well, I know the Department would wish to try and keep it minimised – but this is a serious position that the Isle of Man finds itself in when over 300 senior pupils are excluded, or...

The President: Suspended.

Mr Lowey: – suspended from school? It is the same meaning. And would he not agree that, in certain localities, one hour a day seems, for these children, to be very... when, really, they ought to be getting their time fully occupied in a progressive way, instead of one hour per day?

And would he agree with me that certain localities throughout the Island – my own locality included – has, if you like, seen the results of the present policy in action, and, in effect, these children have deteriorated even further in their behaviour – their anti-social behaviour – and long-term behaviour patterns being set at that vulnerable age? And the authority, the MEA – the MEA! – there is a Freudian slip, Mr President! – the Education Authority is not, in my view, doing enough to counteract it.

The President: Chief Minister.

The Chief Minister: I think the Hon. Member raises a very serious matter, and I just want to draw attention to the fact that it is Isle of Man Government policy not to go down the route of permanently removing students or children’s names from school roles, because that really is ditching everybody’s problem for somebody else to pick up. It also creates a centralised approach to problem children where they end up pooled. Therefore, the problems will only get worse.

So, it is certainly policy to ensure that as many children as possible attend school on a regular basis, without the need to suspend, and I would certainly hope that suspension is always – and has to be – a matter of last resort. So, the numbers are of concern. I think it is indicative of, perhaps, society as we find it today, which is one of the matters that the Children and Young Persons’ Strategy is trying to pick up on, because we are very aware that the earlier intervention there is, in relation to children and young persons – children who, for

whatever reason, are rebelling or not fitting into the school routine – the earlier the intervention, the more successful we are with young people, and the more likely they are to turn out to be reasonable adults.

So, I very much have sympathy with what the hon. questioner is drawing to our attention. But, certainly, I understand what he is saying. Exclusion or suspension – it is the same thing, in relation to the child who is not at school, but I do think there is a difference in terms of the policy. And I have explained that.

The President: The Lord Bishop.

The Lord Bishop: Thank you for that. I think it is very important to establish that exclusion and suspension are completely different things, technically. Exclusion, actually, does mean what is says: ‘Go away and don’t come back again.’ Suspension means: ‘this is discipline and you come back when the discipline is over.’

Would the Chief Minister agree with me that these particular figures show us running parallel with across, but, perhaps, not quite as bad as across, at the moment? I mean, with my experience from across, I see these as, actually, quite reasonable numbers, but we are actually beginning to face the problem of a breakdown of family life, and the discipline that goes with that, which then goes on into school, which pushes the problem out of the home into the school. So the Education Department is finding itself understaffed and underfinanced to deal with a problem that it has not had to deal with before, and that the disruptive child in the school actually becomes more and more of a problem – meaning the education of those children that are not disruptive.

So, we are beginning to see, within the Isle of Man, that growing problem, and that the Chief Minister, I hope, will agree, that the Report on Children actually addresses this (**The Chief Minister:** Yes.) and takes us back to the home, and how we actually get children to behave properly, so that the school does not have to deal with bad behaviour.

The President: If I may, let us not get down to a debate on the education principles here, or, in fact, on family life in the Island. Chief Minister.

The Chief Minister: I can confirm and agree with the comments from the Lord Bishop (**Mr Delaney:** Hear, hear.) that for many young people’s problems in life – and all young people have challenges and problems in life to deal with – that a stable home environment, a happy home environment, preferably a family environment, is the best way to resolve many of the problems, and that school teachers and schools have a daunting task and cannot ever replace that function. But they do their best.

I take heart from the fact that many of the perceptions that come towards me in relation to this problem of young people is that, in fact, things in the primary schools are out of control and all of that. I get a lot of anecdotal comments from parents. But the figures of 21 – although for every one of those 21 that is unfortunate – are, to some extent, more encouraging than the figures for the secondary schools, where 300 pupils having served suspensions is of concern because they, of course, are the ones closest to becoming adults and, maybe, there is a lot of work to be done there.

Mr Lowey: I thank the Chief Minister for his reply, sir.

The President: Yes, and I thank the Chief Minister for attendance this morning. It is a difficult position that we find ourselves in in relation to having Questions answered, and, on most occasions, I think it will be comparatively simple to find a Member prepared to answer.

But, if and when it appears that it is difficult, well, then we are grateful, Chief Minister, for your being prepared to come along this morning to answer those questions. Thank you very much.

The Chief Minister: Thank you for your guidance in this matter, Mr President. I hope that has been helpful.

The President: Thank you.

The Chief Minister (Mr Corkill) left the Chamber at 11.23 a.m.

Orders of the Day concluded

Veterinary Surgeons Bill Consideration of clauses concluded

The President: We will revert, Hon. Members, now, to our Veterinary Surgeons Bill, and we had reached the position of clause 2. So, I call on the Hon. Member, Mr Waft.

Mr Waft: Thank you, Mr President.

Clause 2 and a small part of schedule 1: clause 2, again, refers to schedule 1 of the Bill. Clause 2 does not prevent unqualified people from doing something that is permitted in the first part of schedule 1.

However, we have to read part I of schedule 1 in association with part II of schedule 1, because some procedures which are permitted generally in the first part of the schedule are not permitted in specific circumstances in the second part.

Clause 2 does not prohibit things that are allowed generally in part I of schedule 1, provided that they are not being done in a more specific context, which is prohibited in part II of the schedule.

Clause 2 goes on to permit the Department to specify some minor treatments or procedures in an Order, and these can then be carried out by people other than qualified veterinary surgeons. There may be circumstances where an animal would benefit from specialist services which can best be provided by a medical doctor or a dentist.

Clause 2 enables such services to be carried out by a suitably qualified practitioner, provided that it is at the request of a veterinary surgeon.

The provision is linked to practitioners who are suitably qualified for the purposes of the Medical Act 1985 and the Dental Act 1985.

Part II of the Cruelty to Animals Act 1997 provides for the protection of animals used for scientific procedures.

Hon. Members may recall a debate about the subject in February this year, when Tynwald approved an Order about invertebrates. The Minister at the time, the Member for Rushen, Mr Rimington, said that the only body in the

Island from which the Department would be likely to accept an application for a licence to carry out scientific procedures on invertebrates would be the Port Erin Marine Laboratory. Obviously, in an academic establishment of that sort, scientific procedures would be carried out by students under supervision of knowledgeable staff – knowledgeable, but not qualified as veterinary surgeons. Clause 2, therefore, makes allowance for the carrying out of procedures duly authorised under part I of the Cruelty to Animals Act.

Hon. Members may have heard of transplant operations, where animal organs, such as lungs, are successfully transplanted into humans. Whilst Noble's Hospital has not been involved in such procedures, this Bill makes allowances for it, if it ever becomes necessary, by allowing medical surgeons to carry out the operation of removal.

Important provisions of clause 2 come in subclauses (2) and (3) whereby the Department is enabled to make amending Orders subject to the approval of Tynwald. The biggest drawback about the 1949 Veterinary Surgeons Act is that it does not have that flexibility built into it. The Act is still in the same form as it was in 1949, with no way of amending the schedule other than by primary legislation, despite the fact that veterinary surgery, like every other facet of life, is subject to change, because of new discoveries or social and ethical arguments.

Subclause (2) enables the Department to amend schedule 1 by Order.

Subclause (3) means that the Department can make an Order to exempt a specific form of treatment or procedure when they are carried out by student veterinary surgeons.

The first part of schedule 1 deals with treatments or operations which may be given or carried out by people who are not veterinary surgeons. These reflect the current thinking and advice of the Royal College of Veterinary Surgeons.

The Royal College takes into account changing scientific knowledge and ethical considerations, so there may be some revision as to reflect changes in professional approach, from time to time.

As Hon. Members will recall, clause 2 of the Bill makes provision for the Department to amend the schedule, by Order, following consultation with the Royal College and subject to Tynwald approval.

Part I of schedule 1 refers, in general terms, to treatments and operations which non-qualified people can undertake.

Part II of schedule 1, however, contains specific instances where that general provision is over-ridden. For example, paragraph 4(1)(a) of part I permits, generally, the castration of male livestock by any means. However, part II specifically excludes the castration of six species of male animals, and provides more specific guidelines in relation to four other species. The exemptions and exclusions are set out in full knowledge of the requirements of farming industry.

The Bill does not seek to exclude day-to-day treatments and operations which have a place in farming, but it does require them to be timely and appropriate.

Mr President, I beg to move clause 2 stand part of the Bill.

Mr Lowey: I beg to second, sir, and reserve my remarks.

The President: Hon. Member, Mr Gelling.

Mr Gelling: Yes, Mr President. I would like, if the

Member could, perhaps, just clarify for me: in schedule 1, to which he referred, it goes on to say that there are practices which can be carried out by an unqualified person, but it keeps referring to:

'any medical treatment or any minor surgery (not involving entry into a body cavity) given',

and then it goes on to say that, on item 3 of part I:

'the rendering in an emergency of first aid for the purpose of saving life or relieving pain or suffering'.

Now, what I was coming to is: probably the most obvious and the thing that is carried out on a sheep farm, in particular, is the helping in the removing of a lamb from a sheep that is having difficulty. Well, the farmer or his wife has to enter the body cavity to turn the lamb, to actually take the lamb out.

Now, as I read this, it is as if you have got then to either be a surgeon or a veterinary nurse, which is in item 6(2) and on the list maintained by the Royal College of Veterinary Surgeons. So, I am just starting to wonder here is this a way a farmer – or it is usually the wife, because she has got a much smaller hand – is the one who does the delivery of the lambs – is this something that the vets are going to, actually, be in total control of, and a farmer, unless he comes under the one 'the rendering in an emergency of first aid'...?

But it keeps on repeating: 'any medical treatment not involving entry into a body cavity'. So, I just wondered whether, perhaps, the mover could inform me as to whether that will allow people who are not on the list to actually help the lambs.

The President: If I may be permitted, Hon. Members, on a similar tack, the question seems to be, in clause 2:

'the doing of anything specified in Part I of Schedule 1, and not excluded by Part II of that Schedule'.

So, you have the list of exclusions, which is fine. But you also have in 4(1) – and clause 2 refers to section 1 of the schedule – but 4 also governs that by the age of 18. Certainly, picking up on Mr Gelling's point, I am satisfied that there are many young men and young ladies in the agricultural community well used to carrying out operations before they are 18, of one sort or another.

Mr Waft.

Mr Waft: Thank you, Mr President. *(Laughter)*

Mr Singer: Follow that!

Mr Waft: If I could, with Council's permission, read part of a letter from the Member moving it in another place, and he refers to:

'the exemption for the purpose of the relief of pain and suffering in an emergency applies to all species and includes humane construction by persons over 18.'

I would think possibly an emergency would be when a sheep is having difficulty and there is intervention taking place. I would think that would be an emergency procedure, so the exemption, I would understand, would come into effect in that situation.

The President: Mr Singer.

Mr Singer: In regard to schedule 2, it is interesting when it talks that medical practitioners can actually do the work of vets – I think Mr Waft used the words ‘if they are suitably qualified.’ Does that mean that the medical practitioner would have to be qualified as a vet, because medical procedures will differ? Certainly there is a great difference in medication levels. Perhaps Mr Waft knows that.

And just as an aside, rather than vets being treated by humans, I think a lot of humans might like to be treated by vets, because they would certainly then get unrestricted 24-hour cover.

Mr Lowey: At a price.

Mr Delaney: Can they do teeth?

The President: Hon. Members! Mr Waft.

Mr Waft: I think, Mr President, I do not want to start a war off between the veterinary surgeons and the medical surgeons, (*Laughter*) but I do think it is under the instructions of a veterinary surgeon who has control of the animal, and if he requests assistance or procedures to be carried out by a medical person, so be it.

I think that is as far as I can help with that.

The President: Okay, Hon. Members. Mr Gelling.

Mr Gelling: Mr President, I am sorry to go on further. I am still concerned with that body cavity, and the point you raised, and that is the ‘over 18’, because I am sure Mr Lowey knows of a young lady who is probably one of the best deliverers of lambs because of her smallness in size. From the age of about 12, she was delivering lambs, and it is far better, I can assure you, without being too sensitive, than the big rough hand of a farmer over 18! (*Laughter and injections*)

I just am concerned that we are getting into a situation here where the flock masters... because it goes on to say that the person, even as a nurse, has to be under the employment of a vet, and it does worry me that we are getting into an area here that I just wonder what consultation actually has been had with the farming fraternity. I just feel that could cause a problem, not just for the farmer but for also the many ewes that would, (**Mrs Crowe:** Die.) as I say, much rather a young lady or a lad rather than a big rough farmer.

Mr Singer: It should be in legislation that –

Mrs Crowe: The size of the hand.

Mr Singer: – the size of the vet’s hand should not be above a certain size!

The President: Hon. Members, I take the point, and it is fine to treat it somewhat sceptically; nevertheless, it is the writing of primary law, (**Mr Gelling:** Yes.) and I think the point which is being raised by the Hon. Member is valid, and requires an answer. Mr Waft.

Mr Waft: Thank you, Mr President.

Also included in this letter I referred to previously, it states:

‘The Department does not propose lowering the welfare standards applicable on the Island below those applying in the United Kingdom’.

and the legislation has been, I understand, proposed by the Department of Agriculture and Fisheries, with full consultation with those that needed to be consulted.

If there is a particular problem in that area, I am sure I can get an answer, but I can only go on what is written in the Bill. If you interpret it other than what is written in the Bill, it is down to interpretation.

A Member: That’s the problem.

The President: Hon. Members, the motion that I put to the Council is that clause 2 do stand part of the Bill. Those in favour please say aye; against, no. The ayes have it. The ayes have it.

Clause 3, Mr Waft.

Mr Waft: Thank you, Mr President.

Clause 3: this Bill is intended to ensure that only appropriately qualified people practise veterinary surgery. There may be some who, either for private gain or for status, claim to be a veterinary surgeon, or run a form of business which suggests that they hold veterinary qualifications.

Clause 3 makes it an offence for people who are not qualified to make out or suggest that they are veterinary surgeons. The clause, again, makes it an offence punishable by a fine of up to £5,000, to a custodial sentence of up to three months, or to both.

I beg to move that clause 3 stand part of the Bill.

Mr Lowey: I beg to second, sir, and reserve my remarks.

Mr Singer: My only comment is that here we are possibly putting the lives of animals at stake, and the livelihoods of people who own the animals, and I am concerned that if somebody who purports to be a veterinary surgeon is not, there is only a £5,000 fine, or possibly a three-month sentence. I think this is very low, and I believe it should, because it is lives in people’s hands, be higher. Does Mr Waft know why these figures are in this Bill as such?

The President: Mr Waft to reply.

Mr Waft: Thank you, Mr President.

I would surmise that it has been taken on the advice of the Attorney General’s office, with regard to fines and procedures, and whether custodial sentences of three months or both would be appropriate in these circumstances.

The President: Hon. Members, the motion I put to the Council is that clause 3 do stand part of the Bill. Those in favour please say aye; against, no. The ayes have it. The ayes have it.

Clause 4.

Mr Waft: Clause 4, Mr President, refers to the Register of Veterinary Surgeons as providing evidence that a person is qualified as a veterinary surgeon. If someone’s name does not appear in that Register, it is assumed that that person is not duly qualified.

However, if, for some reason, it is simply a matter of a misname during annual printing of the Register or somebody who has newly qualified since the Register was last published, the Bill provides that a certified copy of entry from the Register of the Royal College of Veterinary Surgeons is satisfactory.

I beg to move that clause 4 stand part of the Bill.

Mr Lowey: I beg to second, sir, and reserve my remarks.

The President: Mr Singer.

Mr Singer: Sorry about this. If somebody comes from abroad, do they have to then register directly with the Royal College of Veterinary Surgeons, and their name go on the list, or is there a reciprocal agreement? What happens to people who have qualifications from countries with which we do not have reciprocal agreements? Do they have to go under a certain amount of training, as in other professions, before they can go on this list?

I am a bit concerned that this list, if it is not kept up to date and people come across, and we can see from the wording here, there could be problems. Does the Hon. Member know any more?

Mr Lowey: To follow on from that, Mr President, to assist the mover: is it not a fact that qualifications that are accepted qualifications in the UK, in the European Union, for example, have the equivalent, as long as the standards of training et cetera are the same, are then recognised in different jurisdictions?

Mr Singer: What I am saying though, it says that they have to... The name has to be on the list. So, for these people who are qualified in the European Union, but come to practise in the UK, does their name have to go on the list for them to be able to undertake work?

The President: Before Mr Waft replies again, perhaps he would also try to explain to me what the words 'until the contrary be made to appear', which appear in both (1) and (2), mean.

Mr Waft: Thank you, Mr President.

I thank the Member for his question. I would just like to state that the Royal College was established in 1844 as a regulatory body. It has powers to award fellowships, diplomas and certificates to veterinary surgeons, veterinary nurses and others, all of which are internationally recognised, and it also acts as an informed and impartial source of opinion on veterinary matters.

The Royal College has a statutory role under the Veterinary Surgeons Act 1966 of the United Kingdom Parliament to maintain a register of veterinary surgeons who hold its qualifications. So, we are only talking about people who hold qualifications under the Royal College.

Whether there is a crossover between another authority to recognise diplomas is down to the Royal College, I would have thought, to accept or deny acceptance on that roll. Whether they have to go through any procedures or question paper, I am not certain about that.

Mr Singer: Yes, I understand, Mr President, if I may

come back, because I think it says that they recognise qualifications of equal status, so that could well be somebody coming from the... But what it says here, as I read it, whilst they recognise it, do their names go on the Royal Veterinary list or do they keep a separate list, so at least, if people want to know if someone is qualified, they ring up and they know? If it is a foreign person or an English person, at least they know that they are recognised as qualified vets, and I do not think that is particularly clear.

But I am not going to make a big deal about it. Perhaps we could come back at Third Reading, and let me know that, unless we take it today.

Mr Waft: I would think, Mr President, to hold a qualification they would have the letters after their name of the qualifications which they hold under the RCV, or whatever it is, and if they have an external qualification, it would need to be there as well, so people would understand whether they had qualified in Japan or China, or wherever, and it would depend on the College whether they accept them on the Register.

The President: Mr Attorney.

The Attorney General: Mr President, just with a view, hopefully, to assist the Hon. Member in relation to the point you have raised, Mr President: the formula that is used in that clause, 'shall be evidence (until the contrary be made to appear)' is not unusual.

Quite often you have situations where there are long lists of people or particular statistical information is given, and the purpose of saying that the lists are deemed accurate, unless proved to the contrary, is very common, and is designed to prevent people having to prove whether they are or are not qualified.

The fact is that if they are on the list, or not on the list, that is prima facie evidence of that fact, unless the contrary is proved.

The President: Hon. Members, the motion I put to the Council is that clause 4 do stand part of the Bill. Those in favour please say aye; against, no. The ayes have it. The ayes have it.

Clause 5, Mr Waft.

Mr Waft: Clause 5, Mr President, again refers to the Register of the Royal College of Veterinary Surgeons. It is important to keep the Register accurate.

If unscrupulous people knew that a veterinary surgeon whose name appeared on the Register had, in fact, died, they might try to use the identity for their own purposes.

Where a veterinary surgeon dies in the Island, clause 5 requires a registrar of deaths to inform the Department of the fact. The Department is then required to inform the Royal College. The Department will meet any costs involved.

I beg to move clause 5.

The President: Mr Lowey.

Mr Lowey: I beg to second and reserve my remarks.

The President: The motion, Hon. Members, is that clause 5 do stand part of the Bill. Those in favour please say aye; against, no. The ayes have it. The ayes have it.

Clause 6, Mr Waft.

Mr Waft: Clause 6, Mr President.

In dealing with clause 2, Hon. Members will recall that there were three circumstances in which the Department may make orders. Paragraph 2(1)(b) deals with making orders to enable specified minor treatments, tests or operations to be carried out by people other than veterinary surgeons, subject to complying with conditions set out in the order.

Subclause (2) enables the Department to amend schedule 1 by order.

Subclause (3) refers to orders to make exemptions subject to conditions for treatments, tests or operations to be carried out by student veterinary surgeons.

Clause 6 requires the Department to consult with the Royal College of Veterinary Surgeons before making any order. Orders can take immediate effect on being made but, other than Appointed Day Orders, must be laid before Tynwald for approval, and shall cease to have effect if Tynwald does not approve them.

I beg to move clause 6 stand part of the Bill.

The President: Mr Lowey.

Mr Lowey: I beg to second, sir, and reserve my remarks.

The President: The motion, Hon. Members is that clause 6 do stand part of the Bill. Those in favour please say aye; against, no. The ayes have it. The ayes have it.

Clause 7, Mr Waft.

Mr Waft: Clause 7, Mr President.

In the 1949 Act, there is not a definition of 'veterinary surgery', as such. The Act contains the links to the Royal College and its Register, and also deals with general procedures which may be carried out by unqualified persons, subject to specific exemptions. Within the detail, the definition of veterinary surgery is implicit.

The Veterinary Surgeons Act 1966 of the United Kingdom Parliament contains an explicit definition of 'veterinary surgery', which is provided in clause 7.

I beg to move that clause 7 stand part of the Bill.

Mr Lowey: I beg to second and reserve my remarks.

The President: Mr Gelling.

Mr Gelling: Yes, I am sorry once again to come back, and I am quite sure the mover could find out, but I am rather surprised, perhaps, that in our definitions, or whatever, there are not some specific everyday occurrences that could be illustrated.

I would like to raise here, on this particular one, Mr President, that clause 7(2)(ii) says:

'any minor treatment, test or operation specified in an order made by the Department...'

Now, could the Member perhaps clarify, or find out to be able to clarify, the Department's own artificial inseminators are not registered veterinary surgeons, they are not registered as veterinary nurses, but they are obviously licensed to... again, we are on to this 'into an aperture within the animal'.

But then we have dairy farmers where it is an everyday

occurrence, and they are qualified to do that particular operation.

Now, my question is: does that mean that all of this goes by the board, as long as DAFF license somebody to do so? That is the question really, because these people, even their own officers, are going to be committing an offence under, as I see here, the primary legislation, of entering the 'aperture' or whatever the term is, of an animal, because they are not on the veterinary surgeons' list or a surgery nurse.

So, that is really the question: does DAFF have, as it says there, an order made by the Department? Can they override all this by giving a licence to somebody to act in that respect?

The President: Mr Attorney.

The Attorney General: Thank you, Mr President.

Again, I hope with a view to being of assistance, and to take up the point made by the Hon. Member, Mr Gelling, which, of course, is a very important and practical issue, and again, the point, Mr President, you have made.

It does seem to me that this is the way the Department can cope with and deal with these so-called 'minor operations', which are of everyday occurrence out in the field. The farmer and his wife should be able to deliver a lamb without having to involve a vet, and I would have thought that the Department would have no difficulty in making an order so that the delivery of lambs and artificial insemination, and so on, would fall within the definition of a 'minor operation'. Otherwise, as you so rightly say, the whole Act will result in vets being all over the place.

The President: Mr Waft.

Mr Waft: I thank the Attorney General for his assistance.

I would just like to say that the do-it-yourself artificial insemination is not covered under this Bill, or the previous 1949 Act. Artificial insemination is regulated by the Artificial Insemination Regulations 1989, made under the Improvement of Livestock Act 1949, now repealed, and saved under the Animal Health Act 1996.

It is proposed that the scanning by non-veterinary surgeons will be covered in a new order. It is the intention of the Department to bring forward a new order, using the powers in this Bill to regulate the practice, for instance, of internal ultrasound scanning, et cetera, by lay persons.

The President: Hon. Members, the motion I put to the Council, then, is that clause 7 do stand part of the Bill. Those in favour please say aye; against, no. The ayes have it. The ayes have it.

Clause 8, Mr Waft.

Mr Waft: Clause 8, Mr President, provides a number of other definitions for the purposes of the Bill.

I beg to move clause 8 stand part of the Bill.

Mr Lowey: I beg to second, sir, and reserve my remarks.

The President: The motion, Hon. Members, is that clause 8 do stand part of the Bill. Those in favour please say aye; against, no. The ayes have it. The ayes have it.

Perhaps we could deal with clauses 9 and 10 and the schedules, Mr Waft.

Mr Waft: Thank you, Mr President.

Clause 9 gives effect to consequential amendments to Acts which are detailed in schedule 2, and repeals in respect of Acts which are detailed in schedule 3.

In schedule 2, there are consequential amendments to nine Acts, most of which relate to omitting reference to 'veterinary practitioner' and providing that 'veterinary surgeon' as the meaning given by this Bill.

In schedule 3, apart from the repeals relating to references to 'veterinary practitioner' there is also a spent amendment in the Statute Law Revision Act 1986 and, of course, the repeal of the Veterinary Surgeons Act 1949.

Clause 10 provides the short title of the Bill, and provides that an Appointed Day Order is necessary to bring it all into force.

I beg to move clauses 9 and 10 and schedules stand part of the Bill.

The President: Mr Lowey.

Mr Lowey: I beg to second, sir, and reserve my remarks.

The President: The motion then, Hon. Members, is that clause 9, along with schedules 2 and 3, and clause 10 do stand part of the Bill. Those in favour please say aye; against, no. The ayes have it. The ayes have it.

Veterinary Surgeons Bill Procedural re Third Reading

Mr Waft: Mr President, could I indulge the Council to suspend Standing Orders for the small paragraph for Third Reading?

Mr Singer: Mr President, I am not sure: there were questions that I would like some answers back on next week, particularly on this veterinary surgeons' list and who goes on it, and has somebody got to be on it, even if they have come from abroad? Have they got to be on the list or is there a separate list? I would like some more details on this.

The President: Mr Gelling.

Mr Gelling: I am content, Mr President, in as much as Mr Attorney has – and it is on *Hansard* – given me the assurances that there will be an order, as the mover has moved, to cover those points, and the point I was concerned about was the actual operation of this, out in the field.

The President: Hon. Members, I am in your hands. Is it important that we move it today, sir, or are you happy to take it over to next week and get some further answers?

Mr Waft: I can certainly take it over, Mr President, but it is only a matter of a phone call to find out straight away.

The President: I think we will hold it over, Hon.

Members, and deal with the third reading at our next sitting.

Mr Lowey: Yes, very wise.

LEAVE TO INTRODUCE

A Bill to amend the Licensing Acts 1966 to 2001 Motion withdrawn

4. Mr Delaney to move:

That leave be given to introduce a Bill to amend the Licensing Acts 1966 to 2001 and for connected matters.

The President: Now, Hon. Members, on our Order Paper, then, we have reached the 'Leave to Introduce' Item. Now, on this one I think I will leave it in the hands of the Hon. Member, Mr Delaney.

Mr Delaney: Mr President, once again I thank you for your courtesy.

Hon. Members, last Friday evening I received communications and I have had the opportunity to speak to the present Minister for Home Affairs and the past Minister, who was responsible for bringing in the 2001 Act, an Act which I and many others supported, and thought would clarify the Licensing Act, and the well running of licensed premises, for the next 10 to 20 years.

Unfortunately, it came to my attention there were a number of flaws in the Licensing Act which had been recognised, somewhat, by the Home Affairs, as section 4 of the 2001 Act had not been progressed. It was in that area, but not the only area where I had seen the flaws.

I intended to move a small Private Member's Bill, with your support, to attack this particular problem.

I have now been given assurance last Friday by officials, and I have spoken to the Ministers, that they will continue talking to the Licensed Victuallers Association and police and others to get these variations and problems sorted out and, if necessary, with their support, they will bring it forward to the parliament, amending legislation where necessary.

I cannot let the opportunity go without saying I thought I was finished with licensing 28 years ago! I also can recall a colleague of mine sitting across the room from me, Mr Lowey, who was instrumental in making sure that, although he did not drink himself, he was prepared to give me the support to get the Sunday Opening Bill through, for which I am still grateful.

The support I have been offered by my colleagues round this table, even though it is unusual to move a Bill from this end of the parliament, I can assure you it has not gone unnoticed by me and by others, and I thank them for the encouragement they have given me.

I have no need at this time to move a Bill, because I believe that the Department, through the auspices of the present Minister and with the support and the clear understanding to me that it will be addressed, not to move legislation from this Chamber.

Thank you, Members. Thank you, Mr President, for your courtesy. I have written to you to give a further explanation,

sir, and I hope you now will accept my apologies for possibly taking up time with this.

The President: I am content with that, sir. I do not think you have taken up any time in particular of the Council over this matter and, if in the future you feel you wish to come back, well, then we will afford you the same courtesy.

Mr Delaney: Thank you.

The President: Now, Hon. Members, that concludes our Order Paper this morning.

The Council will now sit in private, and we will have a discussion on the Housing (Multi-Occupation) Bill.

The Council sat in private at 11.55 a.m., when it was agreed that future Legislative Council sittings would commence at 10.00 a.m.